

Summary of Proposal

DSSM §30501: The proposed amendment would implement Senate Bill (SB) #297, which increases the maximum annual benefit under the Delaware Prescription Assistance program to assist eligible individuals in the purchase of prescription drugs and the payment of certain Medicare Part D costs from \$2,500 to \$3,000.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE

The State Council for Persons with Disabilities (SCPD) endorses this proposed regulation.

Agency Response: DMMA appreciates the endorsement.

Findings of Fact:

The Department finds that the proposed changes as set forth in the September 2006 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) related to the maximum benefit limit of the Delaware Prescription Assistance Program (DPAP) is adopted and shall be final effective November 10, 2006.

Vincent P. Meconi, Secretary, DHSS, 10/12/06

* Please note that no changes were made to the regulation as originally proposed and published in the September 2006 issue of the *Register* at page 446 (10 DE Reg. 446). Therefore, the final regulation is not being republished. Please refer to the September 2006 issue of the *Register* or contact the Division of Medicaid and Medical Assistance for more information.

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL
CONTROL****DIVISION OF AIR AND WASTE MANAGEMENT**

Statutory Authority: 7 Delaware Code, Section 6010(a) (7 **Del.C.**, §6010(a))

Secretary's Order No. 2006-A-0046

**Withdrawal of August 1, 2001, Proposed Amendment to Air Pollution Control Regulations, Which
Proposed Regulating Volatile Organic Compounds Emissions From Lightering Operations.**

Date of Issuance: October 16, 2006

Effective Date: October 16, 2006

1124 Control of Volatile Organic Compound Emissions (Formerly Reg. No. 24)

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") under 29 **Del.C.** §§8001 et seq., 29 **Del.C.** §§10111 et seq. and 7 **Del.C.** §6010 (a), the following findings, reasons and conclusions are entered as an Order of the Secretary in the above-referenced rulemaking proceeding.

On January 12, 2001, the Department issued a Start Action Notice ("SAN") 2000-23 to amend *Regulations Governing Air Pollution Control* ("Regulations"). The regulatory development process resulted in the Department proposing a new Section 46 to Regulation No. 1124 of the Regulations. This amendment would regulate the air emissions of volatile organic compounds ("VOC") that may be released during lightering operations, which are operations to transfer cargo (normally petroleum products) from larger ships to smaller ships so that the ships may deliver the products to shallower locations along the Delaware Bay. The Department's regulatory development process resulted in the August 1, 2001, publication of a proposed regulation in the *Delaware Register of*

Regulations. In addition, the Department held a public hearing on August 30, 2001, and the public comment period remained open until August 31, 2001.

The Department reviewed the extensive public comments on the proposed regulation. Based upon the public comments, the Department decided to revise the proposed regulation. The revision resulted in a complete redrafting of the proposed regulation. The Department's revision will be published November 1, 2006, in the *Delaware Register of Regulations*.

The Department also determines that sound public policy supports withdrawal of the proposed regulation, as published August 1, 2001. Without the withdrawal, there would be two public hearing records and two proposed regulations pending the Department's final decision. The Department determines that only one proposed regulation should be pending final decision, and that the November 1, 2006, proposed regulation is the one that should remain pending as it best reflects the Department's statutory purposes. This Order withdraws the August 1, 2001, proposed regulation, which together with the November 1, 2006, proposed regulation will have only one proposed regulation and public hearing record pending, as opposed to considering two proposed regulations and two public hearing records.

The withdrawal of the August 1, 2001, proposed regulation is because it is no longer applicable as it has been superseded by the November 1, 2006, proposed regulation. The Department took the time to carefully consider the public comments, and developed a better proposed regulation. The record developed on the August 1, 2001, proposed regulation and public hearing now is stale and not relevant to the revised November 1, 2006, proposed regulation. Consequently, it is not appropriate to include the prior proposed regulation's public hearing record as part of the November 1, 2006, proposed regulation to be published in the *Delaware Register of Regulations*.

In conclusion, the following findings and conclusions are entered:

The Department, acting through this Order of the Secretary and 29 **Del.C.** §10118(d), hereby withdraws the proposed regulation published in the *Delaware Register of Regulations* on August 1, 2001, and its associated public hearing record,

The Department shall have this Order published in the *Delaware Register of Regulations* and in newspapers in the same manner as the notice of a proposed regulation;

The Department shall provide notice to the persons affected by the Order, as determined by the Department, including all those who submitted comments to the Department, who otherwise participated in the August 30, 2001, public hearing, and who requested to receive notice of all actions on a proposed regulation.

John A. Hughes, Secretary

DIVISION OF AIR AND WASTE MANAGEMENT

Statutory Authority: 7 Delaware Code, Chapter 60 (7 **Del.C.**, Ch. 60)

Secretary's Order No.: 2006-A-0045

Proposed Amendments to Delaware Regulation 1141: "Limiting Emissions of Volatile Organic Compounds From Consumer and Commercial Products, Section 1 – Architectural and Industrial Maintenance Coatings" of the State of Delaware "Regulations Governing the Control of Air Pollution"

Date of Issuance: October 16, 2006

Effective Date of the Amendment: November 11, 2006

I. Background

A public hearing was held on October 2, 2006, to receive comment on proposed revisions to the State Implementation Plan for the Attainment and Maintenance of the National Ambient Air Quality Standards by amending the existing Delaware No. 41 (now Regulation #1141) entitled, "Limiting Emissions of Volatile Organic Compounds From Consumer and Commercial Products, Section 1 – Architectural and Industrial Maintenance Coatings" of the State of Delaware "Regulations Governing the Control of Air Pollution", under Start Action Notice

(SAN) 2006-08. The proposed amendments concern the specification of a finite period for certain record retention by manufacturers, a revision to certain definitions of products affected by this Regulation, corrections of certain typographical errors contained within the existing Regulation, and the renumbering of the entire regulation to be consistent with the style manual of the Code of Delaware Regulations.

The need for these proposed revisions arose as a result of comments received by the Department from stakeholders after the public hearing held on August 22, 2001, which concerned the original promulgation of Section 1 of Regulation 41. The Department subsequently committed to revise Section 1 of this Regulation at the time of the Environmental Appeals Board hearing held in December of 2002, specifically, to reflect the change in the specialty primer definition to include sealing in efflorescence, as well as to include a record retention period of five (5) years by manufacturers. At both the time preceding the hearing of October 2, 2006, and at the hearing itself, the Department received no public objections or concerns about these proposed amendments, with the exception of an e-mail from Jim Sell of the National Paint and Coatings Association, which expressed full support by the NPCA for these proposed amendments to Regulation No. 41. Proper notice of the hearing was provided as required by law.

After the hearing, the Hearing Officer prepared her report and recommendation in the form of a Hearing Officer's Report to the Secretary dated October 12, 2006, and that report, with its attachment, is expressly incorporated herein by reference.

II. Findings and Conclusions

1. Proper notice was provided as required by law.
2. Promulgation of this proposed amendment will specify a finite period for certain record retention by manufacturers, to wit: five (5) years; will revise the definition of a specialty primer, sealer, undercoater product to include sealing in efflorescence; will correct certain typographical errors which presently exist; and will renumber the entire regulation to be consistent with the style manual of the Code of Delaware Regulations.
3. Promulgation of these proposed revisions will made Delaware's record retention period equivalent to that of Maryland and New Jersey, both of which are fellow Ozone Transport Commission (OTC) member states.
4. With the revision to the definition of a "Specialty Primer, Sealer, and Undercoater", Delaware's definition will be equivalent to that of Pennsylvania, also a fellow OTC member state.
5. These revisions, once promulgated, will fulfill DNREC's commitment made previously to reflect the required change to Delaware's specialty primer definition and to include a specific record retention period within this Regulation.

III. Order

In view of the above findings, it is hereby ordered that the proposed amendments to Regulation No. 41, Section No. 1, (hereinafter to be referred to as Regulation No. 1141, Section No. 1) should be promulgated in final form in accordance with the customary and established rule-making procedure required by law.

IV. Reasons

The adoption of these revisions to Regulation 1141, Section No. 1, represents careful and reasoned action by this agency to consider all comments provided by the public with respect to this issue, and has reflected industry concerns within these proposed revisions. Moreover, in development of these revisions, the Department has taken steps to ensure continued safety of the public health and environment, while taking into account industry concerns, and will assist the Department in furtherance of the policy and purposes of 7 Del. C., Ch. 60.

John A. Hughes, Secretary

*** Please note that no changes were made to the regulation as originally proposed and published in the September 2006 issue of the *Register* at page 465 (10 DE Reg. 465). Therefore, the final regulation is not being republished. Please refer to the September 2006 issue of the *Register* or contact the Division of Air and Waste Management for more information.**